



Eden Environmental Citizens Group, LLC

MAR 25 2019

60-Day Notice of Intent to Sue  
March 20, 2019  
Page 2 of 18

March 20, 2019

Via US Mail, Certified

Dexter Day  
General Manager  
Pacific Locomotive Association, Inc.  
dba Niles Canyon Railway  
P.O. Box 515  
Sunol, CA 94586

Via US Mail

Steven N. H. Wood  
Agent for service  
Pacific Locomotive Association, Inc.  
1470 Maria Lane, Suite 300  
Walnut Creek, CA 94596

**Re: 60-Day Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act ("Clean Water Act")**

To Officers, Directors, Operators, Property Owners and/or Facility Managers of Pacific Locomotive Association, Inc. dba Niles Canyon Railway:

This letter is being sent to you on behalf of Eden Environmental Citizen's Group, LLC ("EDEN") to give legal notice that EDEN intends to file a civil action against Pacific Locomotive Association, Inc. dba Niles Canyon Railway ("Discharger" or "Pacific Locomotive") for violations of the Federal Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that EDEN believes are occurring at the Pacific Locomotive Association, Inc., dba Niles Canyon Railway facility located at 5550 Niles Canyon Road in Sunol, California ("the Facility" or "the site").

2151 Salfio Street #A2-319 Concord, CA 94520  
Telephone: 925-732-0960 Email: [edenenvcitizen@gmail.com](mailto:edenenvcitizen@gmail.com)  
Website: [edenenvironmental.org](http://edenenvironmental.org)

EDEN is an environmental citizen's group established under the laws of the State of California to protect, enhance, and assist in the restoration of all rivers, creeks, streams, wetlands, vernal pools, and tributaries of California, for the benefit of its ecosystems and communities.

EDEN formally registered as a limited liability company (LLC) association with the California Secretary of State on June 22, 2018; however, since at least July 1, 2014, EDEN has existed as an unincorporated environmental citizen's association with members who remain associated with EDEN as of the date of this Notice.

As discussed below, the Facility's discharges of pollutants degrade water quality and harm aquatic life in the Facility's Receiving Waters, which are waters of the United States and described in Section II.B, below. EDEN has members throughout northern California. Some of EDEN's members live, work, and/or recreate near the Receiving Waters and use and enjoy the Receiving Waters for surfing, kayaking, camping, fishing, boating, swimming, hiking, cycling, bird watching, picnicking, viewing wildlife, and/or engaging in scientific study.

At least one of EDEN's current members has standing to bring suit against Pacific Locomotive, as the unlawful discharge of pollutants from the Facility as alleged herein has had an adverse effect particular to him or her and has resulted in actual harm to the specific EDEN member(s).

Further, the Facility's discharges of polluted storm water and non-storm water are ongoing and continuous. As a result, the interests of certain individual EDEN members have been, are being, and will continue to be adversely affected by the failure of Pacific Locomotive to comply with the General Permit and the Clean Water Act.

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of intent to file suit, 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur.

As required by CWA section 505(b), this Notice of Violation and Intent to File Suit provides notice to the Discharger of the violations which have occurred and continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, EDEN intends to file suit in federal court against the Discharger under CWA section 505(a) for the violations described more fully below.

## I. THE SPECIFIC STANDARD, LIMITATION, OR ORDER VIOLATED

EDEN's investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the General Industrial Storm Water Permit issued by the State of California (NPDES General Permit No. CAS000001 [State Water Resources Control Board ("SWRCB")] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("1997 Permit") and by Order No. 2014-0057-DWQ ("2015 Permit") (collectively, the "General Permit").

Information available to EDEN, including documents obtained from California EPA's online Storm Water Multiple Application and Reporting Tracking System ("SMARTS"), indicates that on or January 18, 2013, Pacific Locomotive submitted a Notice of Intent ("NOI") to be authorized to discharge storm water from the Facility. On or around August 16, 2015, Pacific Locomotive submitted an NOI to be authorized to discharge storm water from the Facility under the 2015 Permit. Pacific Locomotive's assigned Waste Discharger Identification number ("WDID") is 2 011024012.

As more fully described in Section II, below, EDEN alleges that in its operations of the Facility, Pacific Locomotive has committed ongoing violations of the substantive and procedural requirements of the Federal Clean Water Act, California Water Code §13377; the General Permit, the Regional Water Board Basin Plan, the California Toxics Rule (CTR) 40 C.F.R. § 131.38, and California Code of Regulations, Title 22, § 64431.

## II. THE LOCATION OF THE ALLEGED VIOLATIONS

### A. The Facility

The location of the point sources from which the pollutants identified in this Notice are discharged in violation of the CWA is Pacific Locomotive's permanent facility address of 5550 Niles Canyon Road in Sunol, California.

Pacific Locomotive's Facility is a museum railroad which provides historic train ride experiences to the public, using vintage railroad cars & locomotives. Facility operations are covered under Standard Industrial Classification Code (SIC) 3743.

Based on the EPA's Industrial Storm Water Fact Sheet for Sector P – Transportation Facilities, polluted discharges from operations at the Facility potentially contain pH affecting substances; heavy metals, arsenic, ethylene glycol, total suspended solids, benzene, gasoline and diesel fuels; fuel additives; coolants; and oil and grease. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.

Information available to EDEN indicates that the Facility's industrial activities and associated materials are exposed to storm water, and that each of the substances listed on the EPA's Industrial Storm Water Fact Sheet is a potential source of pollutants at the Facility.

Information available to EDEN indicates that the Facility's industrial activities and associated materials are exposed to storm water, and that each of the substances listed on the EPA's Industrial Storm Water Fact Sheet is a potential source of pollutants at the Facility.

### B. The Affected Receiving Waters

The Facility discharges to several gully's and seasonal watercourses, which then discharge to the Alameda Creek, a tributary of San Francisco Bay ("Receiving Waters").

The San Francisco Bay is a water of the United States. The CWA requires that water bodies such as the San Francisco Bay meet water quality objectives that protect specific "beneficial uses." The Regional Water Board has issued the *San Francisco Bay Basin Water Quality Control Plan* ("Basin Plan") to delineate those water quality objectives.

The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Receiving Waters downstream of the Facility include: commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and noncontact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated storm water from the Facility adversely affects the water quality of the San Francisco Bay watershed and threatens the beneficial uses and ecosystem of this watershed.

Furthermore, the San Francisco Bay is listed for water quality impairment on the most recent 303(d)-list for the following: chlordane; dichlorodiphenyltrichloroethane (DDT); dieldrin; dioxin compounds (including 2,3,7,8- tetraclorodibenzo-pdioxin); furan compounds; invasive species; mercury; polychlorinated biphenyls (PCBs); PCBs (dioxin-like); selenium, and trash.

Polluted storm water and non-storm water discharges from industrial facilities, such as the Facility, contribute to the further degradation of already impaired surface waters, and harm aquatic dependent wildlife.

## III. VIOLATIONS OF THE CLEAN WATER ACT AND GENERAL PERMIT

### A. Deficient/Invalid SWPPP and/or Site Map

Pacific Locomotive's current Storm Water Pollution Prevention Plan ("SWPPP") and Site Map for the Facility are both inadequate and fail to comply with the requirements of the General Permit as specified in Section X of Order No. 2014-0057-DWQ, as follows:

- (a) The Site Map does not include the minimum required components for Site Maps as indicated in Section X.E of the General Permit. Specifically, the Site Map fails to include the following:
- 1) notes, legends, a north arrow and other data to ensure the map is clear, legible and understandable;
  - 2) the facility boundary;
  - 3) storm water drainage areas within the facility boundary and portions of any drainage area impacted by discharges from surrounding areas;
  - 4) areas of soil erosion;
  - 5) locations of storm water collection and conveyance systems associated discharge locations and direction of flow;
  - 6) sample locations if different than the identified discharge locations;
  - 7) locations and descriptions of structural control measures that affect industrial storm water discharges, authorized NSWDs and/or run-on;
  - 8) identification of all impervious areas of the facility, including paved areas, buildings, covered storage areas or other roofed structures;
  - 9) locations where materials are directly exposed to precipitation and the locations where identified significant spills or leaks have occurred;
  - 10) all areas of industrial activity subject to the General Permit.
- (b) The SWPPP fails to discuss in specific detail Facility operations, including its SIC Code and hours of operations (Section X.D.2.d)
- (c) The SWPPP fails to include an adequate discussion of the Facility's receiving waters (Section X.I.B.6(e), Section X.G.2.ix);
- (d) The SWPPP fails to include an appropriate discussion of the Industrial Materials handled at the facility (Section X.F);
- (e) The SWPPP fails to include an adequate description of Potential Pollutant Sources and narrative assessment of all areas of industrial activity with potential industrial pollutant sources, including Industrial Processes, Material Handling and Storage Areas, Dust and Particulate Generating Activities, Significant Spills and Leaks, Non-Storm Water Discharges and Erodiible Surfaces (Section X.G.1);
- (f) The SWPPP fails to include a narrative assessment of all areas of industrial activity with potential industrial pollutant sources, including the areas of the facility with likely sources of pollutants in storm water discharges and the pollutants likely to be present (Section X.G.2);
- (g) The Minimum Best Management Policies (BMPs) as indicated in the SWPPP are insufficient and do not comply with the minimum required categories as listed in the General Permit, which include Good Housekeeping, Preventive Maintenance, Spill and Leak Prevention and Response, Material Handling and Waste Management, Erosion and Sediment Controls, Employee Training Program and Quality Assurance and Record Keeping (Section X.H.1);
- (h) The Advanced BMPs as identified in the SWPPP are inadequate to comply with the Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") requirements of the General Permit to reduce or prevent discharges of pollutants in the Facility's storm water discharge in a manner that reflects best industry practice, considering technological availability and economic practicability and achievability, including Exposure Minimization BMPs, Storm Water Containment and Discharge Reduction BMPs or Treatment Control BMPs (Section X.H.2);
- (i) The SWPPP fails to include a BMP Summary Table summarizing each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants and the BMPs being implemented (Section X.H.4 and X.H.5);
- (j) The SWPPP fails to include an adequate description of the facility's treatment control BMPs or sediment basin to indicate that it is designed to comply with design storm standards as specified in Section X.H.6;
- (k) The SWPPP fails to discuss in detail factors related to the detention pond, including its maximum capacity, whether it is designed to conform with the requirements of Section X.H.6 of the General Permit (Design Storm Standards for Treatment Control BMPs), or whether it is engineered and constructed to contain the maximum historic precipitation event;
- (l) The SWPPP fails to include an appropriate Monitoring Implementation Plan, including a discussion of Visual Observations, Sampling and Analysis and Sampling Analysis Reporting (Section XI);
- (m) The SWPPP fails to include an appropriate discussion of drainage areas and Outfalls from which samples must be taken during Qualified Storm Events (Section XI);
- (n) The SWPPP fails to include the appropriate sampling parameters for the Facility (Table 1, Section XI); and
- (o) The SWPPP fails to include in the SWPPP detailed information about its Pollution Prevention Team (Section X.D);

(p) The SWPPP fails to discuss the Annual Comprehensive Facility Compliance Evaluation (Section X.A.9);

Failure to develop or implement an adequate SWPPP is a violation of Sections II.B.4.f and X of the General Permit.

**B. Failure to Develop, Implement and/or Revise an Adequate Monitoring and Reporting Program Pursuant to the General Permit**

Section XI of the General Permit requires Dischargers to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. Dischargers have an ongoing obligation to revise the M&RP as necessary to ensure compliance with the General Permit.

The objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the General Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and it must be evaluated and revised whenever appropriate to ensure compliance with the General Permit.

**1. Failure to Conduct Visual Observations**

Section XI(A) of the General Permit requires all Dischargers to conduct visual observations at least once each month, and sampling observations at the same time sampling occurs at a discharge location.

Observations must document the presence of any floating and suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges.

EDEN alleges that between July 1, 2015, and the present, Pacific Locomotive has failed to conduct monthly and sampling visual observations pursuant to Section XI(A) of the General Permit.

**2. Failure to Collect and Analyze the Required Number of Storm Water Samples**

In addition, EDEN alleges that Pacific Locomotive has failed to provide the Regional Water Board with the minimum number of annual documented results of Facility run-off sampling as required under Sections XI.B.2 and XI.B.11.a of Order No. 2014-0057-DWQ, in violation of the General Permit and the CWA.

Section XI.B.2 of the General Permit requires that all Dischargers collect and analyze storm water samples from two Qualifying Storm Events ("QSEs") within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30).

Section XI.C.6.b provides that if samples are not collected pursuant to the General Permit, an explanation must be included in the Annual Report.

As of the date of this Notice, Pacific Locomotive has failed to upload into the SMARTS database system:

- a. Two storm water sample analyses for the time period July 1, 2015, through December 31, 2015;
- b. Two storm water sample analyses for the time period January 1, 2016, through June 30, 2016; and
- c. Two storm water sample analyses for the time period July 1, 2016, through December 31, 2016;

Furthermore, pursuant to data collected from the National Oceanic and Atmospheric Administration ("NOAA"), there were sufficient storm events occurring near 5550 Niles Canyon Road in Sunol during Facility operating hours within the reporting years where required stormwater sample collections were missed to have allowed the Facility to collect at least the minimum number of storm water samples required by the General Permit.

**3. Failure to Collect Storm Water Run-Off Samples during Qualified Storm Events**

Pursuant to Section XI.B.1 of the General Permit, a Qualified Storm Event (QSE) is a precipitation event that both produces a discharge for at least one drainage area at the Facility and is also preceded by 48 hours with no discharge from any drainage area.

Pacific Locomotive's samples collected as listed below are not in compliance with the General Permit because they were not collected during Qualified Storm Events as defined by the General Permit:

Sample Date	QSE Info
03/21/2017	Not a valid QSE – 2nd consecutive day of rainfall
03/05/2018	Not a valid QSE – Not preceded by 48 hours with no discharge from any drainage area
03/22/2018	Not a valid QSE – 3rd consecutive day of rainfall

4. Failure to Deliver Samples to a Laboratory within 48 Hours of Collection

Pursuant to Attachment H, Section 2 of the General Permit, Dischargers are to deliver storm water run-off samples to a qualified Laboratory within 48 hours of the date and time of physical sampling. Pacific Locomotive's samples listed below were not delivered to the Facility's Laboratory in that time frame:

Sample Date/Time	Date/Time Laboratory Received Sample
01/07/2017 9:00 am	01/09/2017 3:12 pm
03/01/2018 11:00 am	03/05/2018 12:34 pm

5. Failure to Sample Correctly for the Parameter of pH

Pursuant to Section XI.C.2.a of the General Permit, the storm water sample "holding" time for pH analysis is 15 minutes. Pacific Locomotive Association (dba Niles Canyon Railway)'s laboratory report dated 03/19/2018 for sample collected on 03/26/2018, shows evidence that the test for the Facility's pH was not conducted within the required 15-minute holding time.

6. Failure to Upload Storm Water Sample Analyses within 30 Days

Section XI.B.11.a of the General Permit requires Dischargers to submit all sampling and analytical results for all individual or Qualified Combined Samples via SMARTS within 30 days of obtaining all results for each sampling event.

Pacific Locomotive failed to upload into SMARTS within 30 days the following sampling and analytical results pursuant to Section XI.B.11.a of the General Permit:

Sample Date	Date of Laboratory Report	Date Uploaded into SMARTS	Length of Days Late
01/07/2017	01/23/2017	07/12/2017	186
03/21/2017	04/04/2017	07/12/2017	113
02/26/2018	03/19/2018	07/16/2018	140
03/01/2018	03/20/2018	07/16/2018	137
03/22/2018	04/05/2018	07/16/2018	116

7. Failure to Analyze Storm Water Samples for the Correct Parameters

General Permit sections XI.B.6.a and XI.B.6.b require all Dischargers to analyze for the following three parameters, regardless of facility type: pH, Total Suspended Solids (TSS) and Oil & Grease (O&G).

On laboratory reports dated 01/23/2017,04/04/2017,03/20/2018, and 04/05/2018, Pacific Locomotive has failed to analyze storm water samples for pH.

C. Late-Filed Annual Report/Failure to File Annual Reports

Pacific Locomotive has failed to comply with Section XVI.A of the General Permit, which provides as follows: "The Discharger shall certify and submit via SMARTS an Annual Report no later than July 15th following each reporting year using the standardized format and checklists in SMARTS."

Pacific Locomotive's Annual Report for the reporting year 2015-16 was due on or before July 15, 2016. Pacific Locomotive has failed to file the Annual Report as of the date of this Notice.

Pacific Locomotive's Annual Reports for the reporting years 2016-17 and 2017-18 were due on or before July 15, 2017 and July 15, 2018 respectively. However, the Facility failed to file the 2016-17 Annual Report until September 23, 2018, and the 2017-2018 report until September 17, 2018.

D. Deficient BMP Implementation

Sections I.C, V.A and X.C.1.b of the General Permit require Dischargers to identify and implement minimum and advanced Best Management Practices ("BMPs") that comply with the Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") requirements of the General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice, considering technological availability and economic practicability and achievability.

EDEN alleges that Pacific Locomotive has been conducting industrial activities at the site without adequate BMPs to prevent resulting non-storm water discharges. Non-storm water discharges resulting from these activities are not from sources that are listed among the authorized non-storm water discharges in the General Permit, and thus are always prohibited.

The Level 1 ERA Evaluation must include the identification of the corresponding BMPs in the SWPPP, as well as any additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances and to comply with the requirements of the General Permit.

Based upon the Level 1 ERA Evaluation, the Discharger is required to, as soon as practicable, but no later than January 1 following commencement of Level 1 status, prepare a Level 1 ERA Report. (Section XII(C)(2)). The Level 1 Report must be prepared by a QISP and include a summary of the Level 1 ERA Evaluation, a detailed description of the necessary SWPPP revisions, and any additional BMPs for each parameter that exceeded an NAL.

The SWPPP revisions and additional BMP development and implementation must also be completed by January 1, and the Level 1 status discharger is required to submit via SMART's the Level 1 ERA Report certifying that the Level 1 ERA Evaluation has been conducted, and necessary SWPPP revisions and BMP implementation has been completed. The certification also requires the QISP's identification number, name, and contact information (telephone number, e-mail address) no later than January 1 following commencement of Level 1 status.

A Discharger's Level 1 status for a parameter will return to Baseline status if a Level 1 ERA Report has been completed, all identified additional BMP's have been implemented, and results from four (4) consecutive qualified storm events that were sampled subsequent to BMP implementation indicate no additional NAL exceedances for that parameter.

A Discharger will enter Level 2 status if there is an NAL exceedance of the same parameter occurring during the time the Discharger is in Level 1 status.

#### Failure to Submit Level 1 ERA Report

Based on the sample data summarized above, the Facility exceeded the EPA Benchmark NAL for Iron for the reporting year 2016-17. These results elevated Pacific Locomotive to Level 1 Status on July 1, 2017, pursuant to Section XII.C -- Exceedance Response Actions -- of the General Permit.

Pursuant to Section XII(C)(2) of the General Permit, the Facility was required to have a QISP conduct an evaluation of the Facility by October 1, 2017, and to upload an adequate Level 1 ERA Report on or before January 1, 2018.

As of the date of this Notice, EDEN alleges that Pacific Locomotive has failed to conduct an adequate Level 1 status evaluation and has also failed to submit a Level 1 ERA report by uploading it into the SMARTS system.

#### Failure to Submit Level 2 Action Plan

While in Level 1 status, the Facility again exceeded the EPA Benchmark NAL for Iron for the reporting year 2017-18. These results elevated Pacific Locomotive to Level 2 Status on July 1, 2018, pursuant to Section XII.D of the General Permit.

Pursuant to Section XII(D)(1) of the General Permit, the Facility was required to have a QISP certify and submit via SMARTS a Level 2 ERA Action Plan that addresses each new Level 2 NAL exceedance at the Facility on or before January 1, 2019.

As of the date of this Notice, EDEN alleges that Pacific Locomotive Association (dba Niles Canyon Railway) has failed to submit a Level 2 ERA Action Plan for the Facility by uploading it into the SMARTS system.

Pacific Locomotive may have had other violations that can only be fully identified and documented once discovery and investigation have been completed. Hence, to the extent possible, EDEN includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

The violations discussed herein are derived from eye witness reports and records publicly available. These violations are continuing.

#### **IV. THE PERSON OR PERSONS RESPONSIBLE FOR THE VIOLATIONS**

The entities responsible for the alleged violations are Pacific Locomotive, as well as employees of the Facility responsible for compliance with the CWA.

#### **V. THE DATE, DATES, OR REASONABLE RANGE OF DATES OF THE VIOLATIONS**

The range of dates covered by this 60-day Notice is from at least July 1, 2014 to the date of this Notice. EDEN may from time to time update this Notice to include all violations which may occur after the range of dates covered by this Notice. Some of the violations are continuous in nature; therefore, each day constitutes a violation.

#### VI. CONTACT INFORMATION

The entity giving this 60-day Notice is Eden Environmental Citizen's Group ("EDEN").

Aiden Sanchez  
EDEN ENVIRONMENTAL CITIZEN'S GROUP  
2151 Salvia Street #A2-319  
Concord, CA 94520  
Telephone: (925) 732-0960  
Email: [Edenenvironmental@gmail.com](mailto:Edenenvironmental@gmail.com) (emailed correspondence is preferred)  
Website: [edenenvironmental.org](http://edenenvironmental.org)

To ensure proper response to this Notice, all communications should be addressed to EDEN's General Counsel, Hans W. Herb.

HANS W. HERB  
Law Offices of Hans W. Herb  
P.O. Box 970  
Santa Rosa, CA 95402  
Telephone: (707) 576-0757  
Email: [hans@hankman.com](mailto:hans@hankman.com)

#### VII. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), §1362(f).

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009, and \$51,570.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, EDEN will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), EDEN will seek to recover its litigation costs, including attorneys' and experts' fees.

#### VIII. CONCLUSION

The CWA specifically provides a 60-day notice period to promote resolution of disputes. EDEN encourages Pacific Locomotive's counsel to contact EDEN's counsel within 20 days of receipt of this Notice to initiate a discussion regarding the violations detailed herein. Please do not contact EDEN directly.

During the 60-day notice period, EDEN is willing to discuss effective remedies for the violations; however, if Pacific Locomotive wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. EDEN reserves the right to file a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,



AIDEN SANCHEZ  
Eden Environmental Citizen's Group

Copies to:

Administrator, U.S. Environmental Protection Agency  
Executive Director, State Water Resources Control Board  
Regional Administrator, U.S. EPA - Region 9

